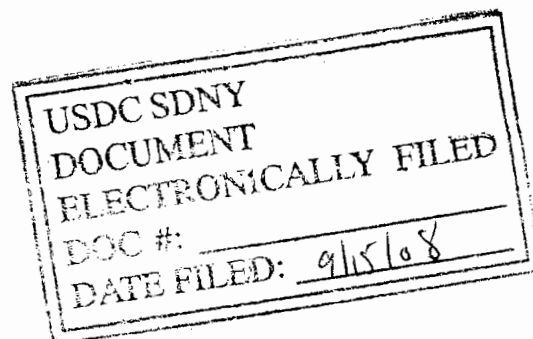


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September 15, 2008

VIA FACSIMILE

Honorable Deborah A. Batts
United States District Judge
Daniel Patrick Moynihan United States
Courthouse
500 Pearl Street, Room 2510
New York, New York 10007-1312

MEMO ENDORSED

Re: Brown v. Sixteen, Inc. (02 CV 4630 (DAB))

Dear Judge Batts:

We represent defendant Sixteen, Inc. ("Sixteen") in connection with the above-referenced action. This letter is to bring to the Court's attention apparent complications associated with the filing of Sixteen's motion for summary judgment and supporting declarations and exhibits and to request the Court's permission to file Exhibit 28 under seal.

On September 8, 2008, pursuant to the Court's Order of July 23, 2008, Sixteen filed by hand its notice of motion for summary judgment, memorandum in support, supporting declarations and a compendium of exhibits thereto. Exhibit 28 to one of the declarations (consisting of a two page excerpt from 2001 tax returns) was filed in a separate envelope indicating that it was to be filed under seal and was accompanied by a copy of the Protective Order entered in this case. Since this case is not designated for ECF, the materials were filed via the Court's "drop box." Attached is a copy of the undersigned's letter to the Clerk with a "Received" stamp of September 8th at 5:04 pm. Also on September 8th, a copy of all of the documents including Exhibit 28 were served by hand on opposing counsel and two courtesy copies were delivered to Your Honor's chambers per the Individual Rules.

On Friday September 12th, we received a letter from the Clerk enclosing and returning to us *all* of the summary judgment materials which were filed on September 8th. The basis for the letter and the return of the documents is apparently that the Clerk only accepts confidential materials in person between the hours of 8:30 am and 4:30 pm. Rather than returning just the tax returns (Exhibit 28), the Clerk returned all of the materials including the brief, declarations and

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compendium of exhibits containing all of non-confidential exhibits (i.e. the exhibits other than Exhibit 28).

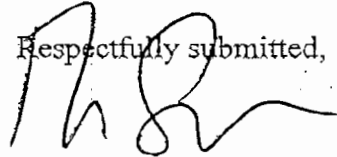
Today, September 15th, all of the non-confidential summary judgment motion papers were re-filed in person with the Clerk. Exhibit 28 consisting of the two pages of documents to be filed under seal were then presented to Records Management (Room 270) in a separate envelope along with a copy of the Protective Order. The Records Management representative informed our filing clerk that he would not accept the filing of the confidential Exhibit by itself. He would only accept the filing of the two page Exhibit by itself if either it was accompanied by the original declaration to which it pertained (which was previously filed with the Clerk) or approved for filing by the Court.

Accordingly, since the original declaration accompanying Exhibit 28 was previously filed with the Clerk, Sixteen respectfully requests leave to file Exhibit 28 by itself under seal.

granted
DAB

Do not hesitate to contact the undersigned with any questions.

Respectfully submitted,

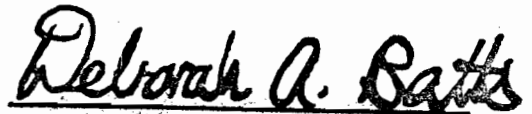


David B. Sunshine
For WolfBlock LLP

Encl.

cc: Raymond J. Dowd, Esq. (attorney for plaintiff)
Martin G. Raskin, Esq.
Amy F. Divino, Esq.

SO ORDERED



DEBORAH A. BATTS
UNITED STATES DISTRICT JUDGE

9/15/08

MEMO ENDORSED